

AMENDED IN ASSEMBLY JUNE 15, 2015

AMENDED IN SENATE MAY 19, 2015

AMENDED IN SENATE APRIL 23, 2015

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 196

**Introduced by Senator Hancock
(Coauthor: Senator Stone)**

February 10, 2015

An act to amend, repeal, and add Sections 15610.07 and 15657.03 of the Welfare and Institutions Code, relating to elder abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 196, as amended, Hancock. Elder abuse: protective orders.

Existing law authorizes a court to issue a protective order to restrain any person for the purpose of preventing the abuse of an elder or dependent adult. Under existing law, certain persons are authorized to file a petition for these protective orders on behalf of the elder or dependent adult, including a conservator or trustee, an attorney-in-fact, a person appointed as a guardian ad litem, or other person legally authorized to seek the order.

This bill would, commencing July 1, 2016, additionally authorize a county adult protective services agency to file a petition for a protective order on behalf of an elder or dependent adult who, ~~among other things,~~ has suffered abuse *or is, or is in imminent danger of becoming, a victim of criminal elder abuse*, and has an impaired ability to appreciate and understand the circumstances that place him or her at risk of harm, or ~~if the elder or dependent adult who~~ has provided written authorization for the agency to act on his or her behalf. ~~The bill would require the~~

~~adult protective services agency to provide a copy of the petition, a notice of the hearing, and any supportive declarations to the elder or dependent adult at least 5 days before the hearing, and to make reasonable efforts to assist the elder or dependent adult to attend the hearing and provide testimony to the court. The bill would impose specified requirements on an adult protective services agency that files the petition, including, among others, assisting the elder or dependent adult to attend the hearing and, if a petition to appoint a conservator has not already been filed, referring the elder or dependent adult to the public guardian, as specified. The bill would also recast and clarify the definition of “abuse of an elder or a dependent adult.”~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 15610.07 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 15610.07. (a) “Abuse of an elder or a dependent adult” means
- 4 either of the following:
- 5 (1) Physical abuse, neglect, financial abuse, abandonment,
- 6 isolation, abduction, or other treatment with resulting physical
- 7 harm or pain or mental suffering.
- 8 (2) The deprivation by a care custodian of goods or services
- 9 that are necessary to avoid physical harm or mental suffering.
- 10 (b) This section shall become inoperative on July 1, 2016, and,
- 11 as of January 1, 2017, is repealed, unless a later enacted statute,
- 12 that becomes operative on or before January 1, 2017, deletes or
- 13 extends the dates on which it becomes inoperative and is repealed.
- 14 SEC. 2. Section 15610.07 is added to the Welfare and
- 15 Institutions Code, to read:
- 16 15610.07. (a) “Abuse of an elder or a dependent adult” means
- 17 any of the following:
- 18 (1) Physical abuse, neglect, abandonment, isolation, abduction,
- 19 or other treatment with resulting physical harm or pain or mental
- 20 suffering.
- 21 (2) The deprivation by a care custodian of goods or services
- 22 that are necessary to avoid physical harm or mental suffering.
- 23 (3) Financial abuse, as defined in Section 15610.30.
- 24 (b) This section shall become operative on July 1, 2016.

1 SEC. 3. Section 15657.03 of the Welfare and Institutions Code
2 is amended to read:

3 15657.03. (a) (1) An elder or dependent adult who has suffered
4 abuse as defined in Section 15610.07 may seek protective orders
5 as provided in this section.

6 (2) A petition may be brought on behalf of an abused elder or
7 dependent adult by a conservator or a trustee of the elder or
8 dependent adult, an attorney-in-fact of an elder or dependent adult
9 who acts within the authority of the power of attorney, a person
10 appointed as a guardian ad litem for the elder or dependent adult,
11 or other person legally authorized to seek such relief.

12 (b) For the purposes of this section:

13 (1) "Conservator" means the legally appointed conservator of
14 the person or estate of the petitioner, or both.

15 (2) "Petitioner" means the elder or dependent adult to be
16 protected by the protective orders and, if the court grants the
17 petition, the protected person.

18 (3) "Protective order" means an order that includes any of the
19 following restraining orders, whether issued ex parte, after notice
20 and hearing, or in a judgment:

21 (A) An order enjoining a party from abusing, intimidating,
22 molesting, attacking, striking, stalking, threatening, sexually
23 assaulting, battering, harassing, telephoning, including, but not
24 limited to, making annoying telephone calls as described in Section
25 653m of the Penal Code, destroying personal property, contacting,
26 either directly or indirectly, by mail or otherwise, or coming within
27 a specified distance of, or disturbing the peace of, the petitioner,
28 and, in the discretion of the court, on a showing of good cause, of
29 other named family or household members or a conservator, if
30 any, of the petitioner.

31 (B) An order excluding a party from the petitioner's residence
32 or dwelling, except that this order shall not be issued if legal or
33 equitable title to, or lease of, the residence or dwelling is in the
34 sole name of the party to be excluded, or is in the name of the party
35 to be excluded and any other party besides the petitioner.

36 (C) An order enjoining a party from specified behavior that the
37 court determines is necessary to effectuate orders described in
38 subparagraph (A) or (B).

1 (4) “Respondent” means the person against whom the protective
2 orders are sought and, if the petition is granted, the restrained
3 person.

4 (c) An order may be issued under this section, with or without
5 notice, to restrain any person for the purpose of preventing a
6 recurrence of abuse, if a declaration shows, to the satisfaction of
7 the court, reasonable proof of a past act or acts of abuse of the
8 petitioning elder or dependent adult.

9 (d) Upon filing a petition for protective orders under this section,
10 the petitioner may obtain a temporary restraining order in
11 accordance with Section 527 of the Code of Civil Procedure, except
12 to the extent this section provides a rule that is inconsistent. The
13 temporary restraining order may include any of the protective
14 orders described in paragraph (3) of subdivision (b). However, the
15 court may issue an ex parte order excluding a party from the
16 petitioner’s residence or dwelling only on a showing of all of the
17 following:

18 (1) Facts sufficient for the court to ascertain that the party who
19 will stay in the dwelling has a right under color of law to possession
20 of the premises.

21 (2) That the party to be excluded has assaulted or threatens to
22 assault the petitioner, other named family or household member
23 of the petitioner, or a conservator of the petitioner.

24 (3) That physical or emotional harm would otherwise result to
25 the petitioner, other named family or household member of the
26 petitioner, or a conservator of the petitioner.

27 (e) A request for the issuance of a temporary restraining order
28 without notice under this section shall be granted or denied on the
29 same day that the petition is submitted to the court, unless the
30 petition is filed too late in the day to permit effective review, in
31 which case the order shall be granted or denied on the next day of
32 judicial business in sufficient time for the order to be filed that day
33 with the clerk of the court.

34 (f) Within 21 days, or, if good cause appears to the court, 25
35 days, from the date that a request for a temporary restraining order
36 is granted or denied, a hearing shall be held on the petition. If no
37 request for temporary orders is made, the hearing shall be held
38 within 21 days, or, if good cause appears to the court, 25 days,
39 from the date that the petition is filed.

1 (g) The respondent may file a response that explains or denies
2 the alleged abuse.

3 (h) The court may issue, upon notice and a hearing, any of the
4 orders set forth in paragraph (3) of subdivision (b). The court may
5 issue, after notice and hearing, an order excluding a person from
6 a residence or dwelling if the court finds that physical or emotional
7 harm would otherwise result to the petitioner, other named family
8 or household member of the petitioner, or conservator of the
9 petitioner.

10 (i) (1) In the discretion of the court, an order issued after notice
11 and a hearing under this section may have a duration of not more
12 than five years, subject to termination or modification by further
13 order of the court either on written stipulation filed with the court
14 or on the motion of a party. These orders may be renewed upon
15 the request of a party, either for five years or permanently, without
16 a showing of any further abuse since the issuance of the original
17 order, subject to termination or modification by further order of
18 the court either on written stipulation filed with the court or on the
19 motion of a party. The request for renewal may be brought at any
20 time within the three months before the expiration of the order.

21 (2) The failure to state the expiration date on the face of the
22 form creates an order with a duration of three years from the date
23 of issuance.

24 (3) If an action is filed for the purpose of terminating or
25 modifying a protective order prior to the expiration date specified
26 in the order by a party other than the protected party, the party
27 who is protected by the order shall be given notice, pursuant to
28 subdivision (b) of Section 1005 of the Code of Civil Procedure,
29 of the proceeding by personal service or, if the protected party has
30 satisfied the requirements of Chapter 3.1 (commencing with
31 Section 6205) of Division 7 of Title 1 of the Government Code,
32 by service on the Secretary of State. If the party who is protected
33 by the order cannot be notified prior to the hearing for modification
34 or termination of the protective order, the court shall deny the
35 motion to modify or terminate the order without prejudice or
36 continue the hearing until the party who is protected can be
37 properly noticed and may, upon a showing of good cause, specify
38 another method for service of process that is reasonably designed
39 to afford actual notice to the protected party. The protected party

1 may waive his or her right to notice if he or she is physically
2 present in court and does not challenge the sufficiency of the notice.

3 (j) In a proceeding under this section, a support person may
4 accompany a party in court and, if the party is not represented by
5 an attorney, may sit with the party at the table that is generally
6 reserved for the party and the party's attorney. The support person
7 is present to provide moral and emotional support for a person
8 who alleges he or she is a victim of abuse. The support person is
9 not present as a legal adviser and may not provide legal advice.
10 The support person may assist the person who alleges he or she is
11 a victim of abuse in feeling more confident that he or she will not
12 be injured or threatened by the other party during the proceedings
13 if the person who alleges he or she is a victim of abuse and the
14 other party are required to be present in close proximity. This
15 subdivision does not preclude the court from exercising its
16 discretion to remove the support person from the courtroom if the
17 court believes the support person is prompting, swaying, or
18 influencing the party assisted by the support person.

19 (k) Upon the filing of a petition for protective orders under this
20 section, the respondent shall be personally served with a copy of
21 the petition, notice of the hearing or order to show cause, temporary
22 restraining order, if any, and any declarations in support of the
23 petition. Service shall be made at least five days before the hearing.
24 The court may, on motion of the petitioner or on its own motion,
25 shorten the time for service on the respondent.

26 (l) A notice of hearing under this section shall notify the
27 respondent that if he or she does not attend the hearing, the court
28 may make orders against him or her that could last up to five years.

29 (m) (1) The court may, upon the filing of a declaration by the
30 petitioner that the respondent could not be served within the time
31 required by statute, reissue an order previously issued and dissolved
32 by the court for failure to serve the respondent. The reissued order
33 shall remain in effect until the date set for the hearing.

34 (2) The reissued order shall state on its face the date of
35 expiration of the order.

36 (n) (1) If a respondent, named in an order issued under this
37 section after a hearing, has not been served personally with the
38 order but has received actual notice of the existence and substance
39 of the order through personal appearance in court to hear the terms

1 of the order from the court, no additional proof of service is
2 required for enforcement of the order.

3 (2) If the respondent named in a temporary restraining order is
4 personally served with the order and notice of hearing with respect
5 to a restraining order or protective order based on the temporary
6 restraining order, but the respondent does not appear at the hearing,
7 either personally or by an attorney, and the terms and conditions
8 of the restraining order or protective order issued at the hearing
9 are identical to the temporary restraining order, except for the
10 duration of the order, then the restraining order or protective order
11 issued at the hearing may be served on the respondent by first-class
12 mail sent to the respondent at the most current address for the
13 respondent that is available to the court.

14 (3) The Judicial Council form for temporary orders issued
15 pursuant to this subdivision shall contain a statement in
16 substantially the following form:

17
18 “If you have been personally served with a temporary restraining
19 order and notice of hearing, but you do not appear at the hearing
20 either in person or by a lawyer, and a restraining order that is the
21 same as this temporary restraining order except for the expiration
22 date is issued at the hearing, a copy of the order will be served on
23 you by mail at the following address: ____.

24 If that address is not correct or you wish to verify that the
25 temporary restraining order was converted to a restraining order
26 at the hearing without substantive change and to find out the
27 duration of that order, contact the clerk of the court.”

28
29 (o) (1) Information on any protective order relating to elder or
30 dependent adult abuse issued by a court pursuant to this section
31 shall be transmitted to the Department of Justice in accordance
32 with either paragraph (2) or (3).

33 (2) The court shall order the petitioner or the attorney for the
34 petitioner to deliver a copy of an order issued under this section,
35 or a reissuance, extension, modification, or termination of the
36 order, and any subsequent proof of service, by the close of the
37 business day on which the order, reissuance, extension,
38 modification, or termination was made, to each law enforcement
39 agency having jurisdiction over the residence of the petitioner, and

1 to any additional law enforcement agencies within the court's
2 discretion as are requested by the petitioner.

3 (3) Alternatively, the court or its designee shall transmit, within
4 one business day, to law enforcement personnel all information
5 required under subdivision (b) of Section 6380 of the Family Code
6 regarding any order issued under this section, or a reissuance,
7 extension, modification, or termination of the order, and any
8 subsequent proof of service, by either one of the following
9 methods:

10 (A) Transmitting a physical copy of the order or proof of service
11 to a local law enforcement agency authorized by the Department
12 of Justice to enter orders into the California Law Enforcement
13 Telecommunications System (CLETS).

14 (B) With the approval of the Department of Justice, entering
15 the order or proof of service into CLETS directly.

16 (4) Each appropriate law enforcement agency shall make
17 available information as to the existence and current status of these
18 orders to law enforcement officers responding to the scene of
19 reported abuse.

20 (5) An order issued under this section shall, on request of the
21 petitioner, be served on the respondent, whether or not the
22 respondent has been taken into custody, by any law enforcement
23 officer who is present at the scene of reported abuse involving the
24 parties to the proceeding. The petitioner shall provide the officer
25 with an endorsed copy of the order and a proof of service, which
26 the officer shall complete and send to the issuing court.

27 (6) Upon receiving information at the scene of an incident of
28 abuse that a protective order has been issued under this section,
29 or that a person who has been taken into custody is the respondent
30 to that order, if the protected person cannot produce an endorsed
31 copy of the order, a law enforcement officer shall immediately
32 attempt to verify the existence of the order.

33 (7) If the law enforcement officer determines that a protective
34 order has been issued, but not served, the officer shall immediately
35 notify the respondent of the terms of the order and where a written
36 copy of the order can be obtained, and the officer shall at that time
37 also enforce the order. The law enforcement officer's verbal notice
38 of the terms of the order shall constitute service of the order and
39 is sufficient notice for the purposes of this section and for the
40 purposes of Section 273.6 of the Penal Code.

1 (p) Nothing in this section shall preclude either party from
2 representation by private counsel or from appearing on the party's
3 own behalf.

4 (q) There is no filing fee for a petition, response, or paper
5 seeking the reissuance, modification, or enforcement of a protective
6 order filed in a proceeding brought pursuant to this section.

7 (r) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2
8 of the Government Code, a petitioner shall not be required to pay
9 a fee for law enforcement to serve an order issued under this
10 section.

11 (s) The prevailing party in any action brought under this section
12 may be awarded court costs and attorney's fees, if any.

13 (t) (1) A person subject to a protective order under this section
14 shall not own, possess, purchase, receive, or attempt to receive a
15 firearm or ammunition while the protective order is in effect.

16 (2) The court shall order a person subject to a protective order
17 issued under this section to relinquish any firearms he or she owns
18 or possesses pursuant to Section 527.9 of the Code of Civil
19 Procedure.

20 (3) Every person who owns, possesses, purchases, or receives,
21 or attempts to purchase or receive a firearm or ammunition while
22 subject to a protective order issued under this section is punishable
23 pursuant to Section 29825 of the Penal Code.

24 (4) This subdivision shall not apply in a case in which the
25 protective order issued under this section was made solely on the
26 basis of financial abuse unaccompanied by force, threat,
27 harassment, intimidation, or any other form of abuse.

28 (u) Any willful disobedience of any temporary restraining order
29 or restraining order after hearing granted under this section is
30 punishable pursuant to Section 273.6 of the Penal Code.

31 (v) This section does not apply to any action or proceeding
32 governed by Title 1.6C (commencing with Section 1788) of Part
33 4 of Division 3 of the Civil Code, Chapter 3 (commencing with
34 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,
35 or Division 10 (commencing with Section 6200) of the Family
36 Code. Nothing in this section shall preclude a petitioner's right to
37 use other existing civil remedies.

38 (w) The Judicial Council shall develop forms, instructions, and
39 rules relating to matters governed by this section. The petition and

1 response forms shall be simple and concise, and their use by parties
2 in actions brought pursuant to this section shall be mandatory.

3 (x) This section shall become inoperative on July 1, 2016, and,
4 as of January 1, 2017, is repealed, unless a later enacted statute,
5 that becomes operative on or before January 1, 2017, deletes or
6 extends the dates on which it becomes inoperative and is repealed.

7 SEC. 4. Section 15657.03 is added to the Welfare and
8 Institutions Code, to read:

9 15657.03. (a) (1) An elder or dependent adult who has suffered
10 abuse may seek protective orders as provided in this section.

11 (2) A petition may be brought on behalf of an abused elder or
12 dependent adult by a conservator or a trustee of the elder or
13 dependent adult, an attorney-in-fact of an elder or dependent adult
14 who acts within the authority of the power of attorney, a person
15 appointed as a guardian ad litem for the elder or dependent adult,
16 or other person legally authorized to seek the relief.

17 (3) (A) A petition under this section may be brought on behalf
18 of an elder or dependent adult by a county adult protective services
19 agency in any of the following circumstances:

20 (i) If there is reasonable cause to believe an elder or dependent
21 adult is in imminent danger of becoming, or has become, the victim
22 of a crime, as provided under Chapter 13 (commencing with
23 Section 368) of Title 9 of Part 1 of the Penal Code, and has an
24 impaired ability to appreciate and understand the circumstances
25 that place him or her at risk of harm.

26 (ii) If the elder or dependent adult has suffered abuse as defined
27 in subdivision (b) and has an impaired ability to appreciate and
28 understand the circumstances that place him or her at risk of harm.

29 (iii) If the elder or dependent adult has provided written
30 authorization to a county adult protective services agency to act
31 on his or her behalf.

32 (B) In the case of a petition filed pursuant to clause (i) or (ii) of
33 subparagraph (A) by a county adult protective services agency, a
34 referral shall be made to the public guardian consistent with Section
35 2920 of the Probate Code prior to or concurrent with the filing of
36 the petition, *unless a petition for appointment of a conservator*
37 *has already been filed with the probate court by the public*
38 *guardian or another party.*

39 (C) A county adult protective services agency shall be subject
40 to any confidentiality restrictions ~~as~~ *that* otherwise apply to its

1 activities under law and shall ~~only~~ disclose *only* those facts as
2 necessary to establish reasonable cause for the filing of the petition,
3 *including, in the case of a petition filed pursuant to clause (i) or*
4 *(ii) of subparagraph (A), to establish the agency's belief that the*
5 *elder or dependent adult is in imminent danger or has suffered*
6 *abuse and has an impaired ability to appreciate and understand*
7 *the circumstances that place him or her at risk,* and as may be
8 requested by the court in determining whether to issue an order
9 under this section.

10 (b) For the purposes of this section:

11 (1) "Abuse" has the meaning set forth in Section 15610.07.

12 (2) "Conservator" means the legally appointed conservator of
13 the person or estate of the petitioner, or both.

14 (3) "Petitioner" means the elder or dependent adult to be
15 protected by the protective orders and, if the court grants the
16 petition, the protected person.

17 (4) "Protective order" means an order that includes any of the
18 following restraining orders, whether issued ex parte, after notice
19 and hearing, or in a judgment:

20 (A) An order enjoining a party from abusing, intimidating,
21 molesting, attacking, striking, stalking, threatening, sexually
22 assaulting, battering, harassing, telephoning, including, but not
23 limited to, making annoying telephone calls as described in Section
24 653m of the Penal Code, destroying personal property, contacting,
25 either directly or indirectly, by mail or otherwise, or coming within
26 a specified distance of, or disturbing the peace of, the petitioner,
27 and, in the discretion of the court, on a showing of good cause, of
28 other named family or household members or a conservator, if
29 any, of the petitioner.

30 (B) An order excluding a party from the petitioner's residence
31 or dwelling, except that this order shall not be issued if legal or
32 equitable title to, or lease of, the residence or dwelling is in the
33 sole name of the party to be excluded, or is in the name of the party
34 to be excluded and any other party besides the petitioner.

35 (C) An order enjoining a party from specified behavior that the
36 court determines is necessary to effectuate orders described in
37 subparagraph (A) or (B).

38 (5) "Respondent" means the person against whom the protective
39 orders are sought and, if the petition is granted, the restrained
40 person.

1 (c) An order may be issued under this section, with or without
2 notice, to restrain any person for the purpose of preventing a
3 recurrence of abuse, if a declaration shows, to the satisfaction of
4 the court, reasonable proof of a past act or acts of abuse of the
5 petitioning elder or dependent adult.

6 (d) Upon filing a petition for protective orders under this section,
7 the petitioner may obtain a temporary restraining order in
8 accordance with Section 527 of the Code of Civil Procedure, except
9 to the extent this section provides a rule that is inconsistent. The
10 temporary restraining order may include any of the protective
11 orders described in paragraph (4) of subdivision (b). However, the
12 court may issue an ex parte order excluding a party from the
13 petitioner's residence or dwelling only on a showing of all of the
14 following:

15 (1) Facts sufficient for the court to ascertain that the party who
16 will stay in the dwelling has a right under color of law to possession
17 of the premises.

18 (2) That the party to be excluded has assaulted or threatens to
19 assault the petitioner, other named family or household member
20 of the petitioner, or a conservator of the petitioner.

21 (3) That physical or emotional harm would otherwise result to
22 the petitioner, other named family or household member of the
23 petitioner, or a conservator of the petitioner.

24 (e) A request for the issuance of a temporary restraining order
25 without notice under this section shall be granted or denied on the
26 same day that the petition is submitted to the court, unless the
27 petition is filed too late in the day to permit effective review, in
28 which case the order shall be granted or denied on the next day of
29 judicial business in sufficient time for the order to be filed that day
30 with the clerk of the court.

31 (f) Within 21 days, or, if good cause appears to the court, 25
32 days, from the date that a request for a temporary restraining order
33 is granted or denied, a hearing shall be held on the petition. If no
34 request for temporary orders is made, the hearing shall be held
35 within 21 days, or, if good cause appears to the court, 25 days,
36 from the date that the petition is filed.

37 (g) The respondent may file a response that explains or denies
38 the alleged abuse.

39 (h) The court may issue, upon notice and a hearing, any of the
40 orders set forth in paragraph (4) of subdivision (b). The court may

1 issue, after notice and hearing, an order excluding a person from
2 a residence or dwelling if the court finds that physical or emotional
3 harm would otherwise result to the petitioner, other named family
4 or household member of the petitioner, or conservator of the
5 petitioner.

6 (i) (1) In the discretion of the court, an order issued after notice
7 and a hearing under this section may have a duration of not more
8 than five years, subject to termination or modification by further
9 order of the court either on written stipulation filed with the court
10 or on the motion of a party. These orders may be renewed upon
11 the request of a party, either for five years or permanently, without
12 a showing of any further abuse since the issuance of the original
13 order, subject to termination or modification by further order of
14 the court either on written stipulation filed with the court or on the
15 motion of a party. The request for renewal may be brought at any
16 time within the three months before the expiration of the order.

17 (2) The failure to state the expiration date on the face of the
18 form creates an order with a duration of three years from the date
19 of issuance.

20 (3) If an action is filed for the purpose of terminating or
21 modifying a protective order prior to the expiration date specified
22 in the order by a party other than the protected party, the party
23 who is protected by the order shall be given notice, pursuant to
24 subdivision (b) of Section 1005 of the Code of Civil Procedure,
25 of the proceeding by personal service or, if the protected party has
26 satisfied the requirements of Chapter 3.1 (commencing with
27 Section 6205) of Division 7 of Title 1 of the Government Code,
28 by service on the Secretary of State. If the party who is protected
29 by the order cannot be notified prior to the hearing for modification
30 or termination of the protective order, the court shall deny the
31 motion to modify or terminate the order without prejudice or
32 continue the hearing until the party who is protected can be
33 properly noticed and may, upon a showing of good cause, specify
34 another method for service of process that is reasonably designed
35 to afford actual notice to the protected party. The protected party
36 may waive his or her right to notice if he or she is physically
37 present in court and does not challenge the sufficiency of the notice.

38 (j) In a proceeding under this section, a support person may
39 accompany a party in court and, if the party is not represented by
40 an attorney, may sit with the party at the table that is generally

1 reserved for the party and the party's attorney. The support person
2 is present to provide moral and emotional support for a person
3 who alleges he or she is a victim of abuse. The support person is
4 not present as a legal adviser and may not provide legal advice.
5 The support person may assist the person who alleges he or she is
6 a victim of abuse in feeling more confident that he or she will not
7 be injured or threatened by the other party during the proceedings
8 if the person who alleges he or she is a victim of abuse and the
9 other party are required to be present in close proximity. This
10 subdivision does not preclude the court from exercising its
11 discretion to remove the support person from the courtroom if the
12 court believes the support person is prompting, swaying, or
13 influencing the party assisted by the support person.

14 (k) Upon the filing of a petition for protective orders under this
15 section, the respondent shall be personally served with a copy of
16 the petition, notice of the hearing or order to show cause, temporary
17 restraining order, if any, and any declarations in support of the
18 petition. Service shall be made at least five days before the hearing.
19 The court may, on motion of the petitioner or on its own motion,
20 shorten the time for service on the respondent.

21 (l) A notice of hearing under this section shall notify the
22 respondent that if he or she does not attend the hearing, the court
23 may make orders against him or her that could last up to five years.

24 (m) (1) The court may, upon the filing of a declaration by the
25 petitioner that the respondent could not be served within the time
26 required by statute, reissue an order previously issued and dissolved
27 by the court for failure to serve the respondent. The reissued order
28 shall remain in effect until the date set for the hearing.

29 (2) The reissued order shall state on its face the date of
30 expiration of the order.

31 (n) (1) If a respondent, named in an order issued under this
32 section after a hearing, has not been served personally with the
33 order but has received actual notice of the existence and substance
34 of the order through personal appearance in court to hear the terms
35 of the order from the court, no additional proof of service is
36 required for enforcement of the order.

37 (2) If the respondent named in a temporary restraining order is
38 personally served with the order and notice of hearing with respect
39 to a restraining order or protective order based on the temporary
40 restraining order, but the respondent does not appear at the hearing,

1 either personally or by an attorney, and the terms and conditions
2 of the restraining order or protective order issued at the hearing
3 are identical to the temporary restraining order, except for the
4 duration of the order, then the restraining order or protective order
5 issued at the hearing may be served on the respondent by first-class
6 mail sent to the respondent at the most current address for the
7 respondent that is available to the court.

8 (3) The Judicial Council form for temporary orders issued
9 pursuant to this subdivision shall contain a statement in
10 substantially the following form:

11
12 “If you have been personally served with a temporary restraining
13 order and notice of hearing, but you do not appear at the hearing
14 either in person or by a lawyer, and a restraining order that is the
15 same as this temporary restraining order except for the expiration
16 date is issued at the hearing, a copy of the order will be served on
17 you by mail at the following address: ____.

18 If that address is not correct or you wish to verify that the
19 temporary restraining order was converted to a restraining order
20 at the hearing without substantive change and to find out the
21 duration of that order, contact the clerk of the court.”

22
23 (o) (1) Information on any protective order relating to elder or
24 dependent adult abuse issued by a court pursuant to this section
25 shall be transmitted to the Department of Justice in accordance
26 with either paragraph (2) or (3).

27 (2) The court shall order the petitioner or the attorney for the
28 petitioner to deliver a copy of an order issued under this section,
29 or a reissuance, extension, modification, or termination of the
30 order, and any subsequent proof of service, by the close of the
31 business day on which the order, reissuance, extension,
32 modification, or termination was made, to each law enforcement
33 agency having jurisdiction over the residence of the petitioner, and
34 to any additional law enforcement agencies within the court’s
35 discretion as are requested by the petitioner.

36 (3) Alternatively, the court or its designee shall transmit, within
37 one business day, to law enforcement personnel all information
38 required under subdivision (b) of Section 6380 of the Family Code
39 regarding any order issued under this section, or a reissuance,
40 extension, modification, or termination of the order, and any

1 subsequent proof of service, by either one of the following
2 methods:

3 (A) Transmitting a physical copy of the order or proof of service
4 to a local law enforcement agency authorized by the Department
5 of Justice to enter orders into the California Law Enforcement
6 Telecommunications System (CLETS).

7 (B) With the approval of the Department of Justice, entering
8 the order or proof of service into CLETS directly.

9 (4) Each appropriate law enforcement agency shall make
10 available information as to the existence and current status of these
11 orders to law enforcement officers responding to the scene of
12 reported abuse.

13 (5) An order issued under this section shall, on request of the
14 petitioner, be served on the respondent, whether or not the
15 respondent has been taken into custody, by any law enforcement
16 officer who is present at the scene of reported abuse involving the
17 parties to the proceeding. The petitioner shall provide the officer
18 with an endorsed copy of the order and a proof of service, which
19 the officer shall complete and send to the issuing court.

20 (6) Upon receiving information at the scene of an incident of
21 abuse that a protective order has been issued under this section,
22 or that a person who has been taken into custody is the respondent
23 to that order, if the protected person cannot produce an endorsed
24 copy of the order, a law enforcement officer shall immediately
25 attempt to verify the existence of the order.

26 (7) If the law enforcement officer determines that a protective
27 order has been issued, but not served, the officer shall immediately
28 notify the respondent of the terms of the order and where a written
29 copy of the order can be obtained, and the officer shall at that time
30 also enforce the order. The law enforcement officer's verbal notice
31 of the terms of the order shall constitute service of the order and
32 is sufficient notice for the purposes of this section and for the
33 purposes of Section 273.6 of the Penal Code.

34 (p) Nothing in this section shall preclude either party from
35 representation by private counsel or from appearing on the party's
36 own behalf.

37 (q) There is no filing fee for a petition, response, or paper
38 seeking the reissuance, modification, or enforcement of a protective
39 order filed in a proceeding brought pursuant to this section.

1 (r) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2
2 of the Government Code, a petitioner shall not be required to pay
3 a fee for law enforcement to serve an order issued under this
4 section.

5 (s) The prevailing party in any action brought under this section
6 may be awarded court costs and attorney's fees, if any.

7 (t) (1) A person subject to a protective order under this section
8 shall not own, possess, purchase, receive, or attempt to receive a
9 firearm or ammunition while the protective order is in effect.

10 (2) The court shall order a person subject to a protective order
11 issued under this section to relinquish any firearms he or she owns
12 or possesses pursuant to Section 527.9 of the Code of Civil
13 Procedure.

14 (3) Every person who owns, possesses, purchases, or receives,
15 or attempts to purchase or receive a firearm or ammunition while
16 subject to a protective order issued under this section is punishable
17 pursuant to Section 29825 of the Penal Code.

18 (4) This subdivision shall not apply in a case in which the
19 protective order issued under this section was made solely on the
20 basis of financial abuse unaccompanied by force, threat,
21 harassment, intimidation, or any other form of abuse.

22 (u) In a proceeding brought under paragraph (3) of subdivision
23 (a), all of the following apply:

24 (1) Upon the filing of a petition for a protective order, the elder
25 or dependent adult on whose behalf the petition has been filed
26 shall receive a copy of the petition, a notice of the hearing, and
27 any declarations submitted in support of the petition. The elder or
28 dependent adult shall receive this information at least five days
29 before the hearing. The court may, on motion of the petitioner or
30 on its own motion, shorten the time for provision of this
31 information to the elder or dependent adult.

32 (2) The adult protective services agency shall make reasonable
33 efforts to assist the elder or dependent adult to attend the hearing
34 and provide testimony to the court, if he or she wishes to do so. If
35 the elder or dependent adult does not attend the hearing, the agency
36 shall provide information to the court at the hearing regarding the
37 reasons why the elder or dependent adult is not in attendance.

38 (3) Upon the filing of a petition for a protective order and upon
39 issuance of an order granting the petition, the county adult
40 protective services agency shall take all reasonable steps to provide

1 for the safety of the elder or dependent adult, pursuant to Chapter
2 13 (commencing with Section 15750), which may include, but-is
3 are not limited to, ~~locating~~ *facilitating the location of* alternative
4 accommodations for the elder or dependent adult, if needed.

5 (v) Any willful disobedience of any temporary restraining order
6 or restraining order after hearing granted under this section is
7 punishable pursuant to Section 273.6 of the Penal Code.

8 (w) This section does not apply to any action or proceeding
9 governed by Title 1.6C (commencing with Section 1788) of Part
10 4 of Division 3 of the Civil Code, Chapter 3 (commencing with
11 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure,
12 or Division 10 (commencing with Section 6200) of the Family
13 Code. Nothing in this section shall preclude a petitioner's right to
14 use other existing civil remedies.

15 (x) The Judicial Council shall develop forms, instructions, and
16 rules relating to matters governed by this section. The petition and
17 response forms shall be simple and concise, and shall be used by
18 parties in actions brought pursuant to this section.

19 (y) This section shall become operative on July 1, 2016.